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ORIGINAL

THE HONORABLE EDWARD F. SHEA

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAN 09 2002

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DEPUTY
SPOKANE, WASHINGTON

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

No. CS-01-0127-EFS

IN RE RIVER PARK SQUARE
PROJECT BOND LITIGATION

DEFENDANT PRUDENTIAL
SECURITIES
INCORPORATED'S
ANSWER AND COUNTER-
CLAIM TO THE CITY OF
SPOKANE'S CROSS-CLAIM

COMES NOW defendant Prudential Securities Incorporated
("Prudential"), by and through its undersigned attorneys, and in response to the
Cross-claim of the City of Spokane hereby states and alleges as follows:

ANSWER

1.1 Prudential admits the allegations of paragraph 1.1 of the cross-
claim.

1.2 Prudential is without knowledge or information sufficient to form a
belief as to the truth of the allegations of paragraph 1.2 of the cross-claim, and
therefore, denies the same.

DEFENDANT PRUDENTIAL SECURITIES INC.'S
ANSWER AND COUNTERCLAIM TO THE CITY
OF SPOKANE'S CROSS-CLAIM - 1

LANE POWELL SPEARS LUBERSKY LLP
SUITE 4100
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1 1.3 Prudential is without knowledge or information sufficient to form a
2 belief as to the truth of the allegations of paragraph 1.3 of the cross-claim, and
3 therefore, denies the same.

4 1.4 Prudential is without knowledge or information sufficient to form a
5 belief as to the truth of the allegations of paragraph 1.4 of the cross-claim, and
6 therefore, denies the same.

7 1.5 Prudential is without knowledge or information sufficient to form a
8 belief as to the truth of the allegations of paragraph 1.5 of the cross-claim, and
9 therefore, denies the same.

10 1.6 Prudential is without knowledge or information sufficient to form a
11 belief as to the truth of the allegations of paragraph 1.6 of the cross-claim, and
12 therefore, denies the same.

13 1.7 Prudential is without knowledge or information sufficient to form a
14 belief as to the truth of the allegations of paragraph 1.7 of the cross-claim, and
15 therefore, denies the same.

16 1.8 Prudential is without knowledge or information sufficient to form a
17 belief as to the truth of the allegations of paragraph 1.8 of the cross-claim, and
18 therefore, denies the same.

19 1.9 Prudential is without knowledge or information sufficient to form a
20 belief as to the truth of the allegations of paragraph 1.9 of the cross-claim, and
21 therefore, denies the same.

22 1.10 Prudential is without knowledge or information sufficient to form a
23 belief as to the truth of the allegations of paragraph 1.10 of the cross-claim, and
24 therefore, denies the same.
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26

1 1.11 Prudential is without knowledge or information sufficient to form a
2 belief as to the truth of the allegations of paragraph 1.11 of the cross-claim, and
3 therefore, denies the same.

4 1.12 Answering paragraph 1.12 of the cross-claim, Prudential admits
5 that the Spokane City Council passed a resolution regarding efforts to develop
6 the Parking Garage. Prudential neither admits nor denies the allegations with
7 respect to the substance of the resolution as that document speaks for itself.

8 1.13 Prudential is without knowledge or information sufficient to form a
9 belief as to the truth of the allegations of paragraph 1.13 of the cross-claim, and
10 therefore, denies the same.

11 1.14 Answering paragraph 1.14 of the cross-claim, Prudential neither
12 admits nor denies the allegations with respect to the substance of the resolution
13 as that document speaks for itself.

14 1.15 Prudential is without knowledge or information sufficient to form a
15 belief as to the truth of the allegations of paragraph 1.15 of the cross-claim, and
16 therefore, denies the same.

17 1.16 Prudential is without knowledge or information sufficient to form a
18 belief as to the truth of the allegations of paragraph 1.16 of the cross-claim, and
19 therefore, denies the same. Prudential neither admits nor denies the allegations
20 with respect to the terms of the contract between the City and Walker as that
21 document speaks for itself.

22 1.17 Prudential neither admits nor denies the allegations with respect to
23 the terms of the contract between the City and Walker as that document speaks
24 for itself. Prudential is without knowledge or information sufficient to form a
25 belief as to the truth of the remaining allegations of paragraph 1.17 of the cross-
26 claim, and therefore, denies the same.

1 1.18 Prudential neither admits nor denies the allegations with respect to
2 the terms of the contract between the City and Walker as that document speaks
3 for itself. Prudential is without knowledge or information sufficient to form a
4 belief as to the truth of the allegations of paragraph 1.18 of the cross-claim, and
5 therefore, denies the same.

6 1.19 Prudential neither admits nor denies the allegations with respect to
7 the terms of the contract between the City and Walker as that document speaks
8 for itself. Prudential is without knowledge or information sufficient to form a
9 belief as to the truth of the allegations of paragraph 1.19 of the cross-claim, and
10 therefore, denies the same.

11 1.20 Prudential is without knowledge or information sufficient to form a
12 belief as to the truth of the allegations of paragraph 1.20 of the cross-claim, and
13 therefore, denies the same.

14 1.21 Prudential is without knowledge or information sufficient to form a
15 belief as to the truth of the allegations of paragraph 1.21 of the cross-claim, and
16 therefore, denies the same.

17 1.22 Prudential is without knowledge or information sufficient to form a
18 belief as to the truth of the allegations of paragraph 1.22 of the cross-claim, and
19 therefore, denies the same.

20 1.23 Prudential is without knowledge or information sufficient to form a
21 belief as to the truth of the allegations of paragraph 1.23 of the cross-claim, and
22 therefore, denies the same.

23 1.24 Prudential is without knowledge or information sufficient to form a
24 belief as to the truth of the allegations of paragraph 1.24 of the cross-claim, and
25 therefore, denies the same.
26

1 1.25 Prudential admits that Walker issued an analysis in June of 1996.
2 Prudential neither admits nor denies the allegations with respect to the
3 substance of the analysis as that document speaks for itself. Prudential is
4 without knowledge or information sufficient to form a belief as to the truth of
5 the remaining allegations of paragraph 1.19 of the cross-claim, and therefore,
6 denies the same.

7 1.26 Prudential admits that Walker issued the Public Use Study in
8 October of 1996. Prudential neither admits nor denies the allegations with
9 respect to the substance of the Public Use Study as that document speaks for
10 itself. Prudential is without knowledge or information sufficient to form a
11 belief as to the truth of the remaining allegations of paragraph 1.19 of the cross-
12 claim, and therefore, denies the same.

13 1.27 Prudential is without knowledge or information sufficient to form a
14 belief as to the truth of the allegations of paragraph 1.27 of the cross-claim, and
15 therefore, denies the same.

16 1.28 Prudential is without knowledge or information sufficient to form a
17 belief as to the truth of the allegations of paragraph 1.28 of the cross-claim, and
18 therefore, denies the same.

19 1.29 Prudential is without knowledge or information sufficient to form a
20 belief as to the truth of the allegations of paragraph 1.29 of the cross-claim, and
21 therefore, denies the same.

22 1.30 Prudential is without knowledge or information sufficient to form a
23 belief as to the truth of the allegations of paragraph 1.30 of the cross-claim, and
24 therefore, denies the same.
25
26

1 1.31 Prudential is without knowledge or information sufficient to form a
2 belief as to the truth of the allegations of paragraph 1.31 of the cross-claim, and
3 therefore, denies the same.

4 1.32 Prudential neither admits nor denies the allegations with respect to
5 the substance of the Feasibility Analysis as that document speaks for itself.
6 Prudential is without knowledge or information sufficient to form a belief as to
7 the truth of the remaining allegations of paragraph 1.32 of the cross-claim, and
8 therefore, denies the same.

9 1.33 Prudential is without knowledge or information sufficient to form a
10 belief as to the truth of the allegations of paragraph 1.33 of the cross-claim, and
11 therefore, denies the same.

12 1.34 Prudential is without knowledge or information sufficient to form a
13 belief as to the truth of the allegations of paragraph 1.34 of the cross-claim, and
14 therefore, denies the same.

15 1.35 Prudential is without knowledge or information sufficient to form a
16 belief as to the truth of the allegations of paragraph 1.35 of the cross-claim, and
17 therefore, denies the same.

18 1.36 Prudential admits that the City adopted ordinances with respect to
19 the development of the Garage Facility. Prudential neither admits nor denies
20 the allegations with respect to the substance of the ordinances as those
21 documents speak for themselves. Prudential is without knowledge or
22 information sufficient to form a belief as to the truth of the remaining
23 allegations of paragraph 1.36 of the cross-claim, and therefore, denies the same.

24 1.37 Prudential neither admits nor denies the allegations with respect to
25 the substance of the ordinances as those documents speak for themselves.
26 Prudential is without knowledge or information sufficient to form a belief as to

1 the truth of the remaining allegations of paragraph 1.37 of the cross-claim, and
2 therefore, denies the same.

3 1.38 Prudential admits that the City held a public hearing regarding its
4 participation in the development of the Garage Facility in October of 1996.
5 Prudential is without knowledge or information sufficient to form a belief as to
6 the truth of the remaining allegations of paragraph 1.31 of the cross-claim, and
7 therefore, denies the same.

8 1.39 Prudential admits that one of its representatives testified at the
9 public hearing. Prudential denies the remaining allegations of paragraph 1.39.

10 1.40 Prudential is without knowledge or information sufficient to form a
11 belief as to the truth of the allegations of paragraph 1.40 of the cross-claim, and
12 therefore, denies the same.

13 1.41 Prudential is without knowledge or information sufficient to form a
14 belief as to the truth of the allegations of paragraph 1.41 of the cross-claim, and
15 therefore, denies the same.

16 1.42 Prudential is without knowledge or information sufficient to form a
17 belief as to the truth of the allegations of paragraph 1.42 of the cross-claim, and
18 therefore, denies the same.

19 1.43 Prudential is without knowledge or information sufficient to form a
20 belief as to the truth of the allegations of paragraph 1.43 of the cross-claim, and
21 therefore, denies the same.

22 1.44 Prudential is without knowledge or information sufficient to form a
23 belief as to the truth of the allegations of paragraph 1.44 of the cross-claim, and
24 therefore, denies the same.
25
26

1 1.45 Prudential is without knowledge or information sufficient to form a
2 belief as to the truth of the allegations of paragraph 1.45 of the cross-claim, and
3 therefore, denies the same.

4 1.46 Prudential is without knowledge or information sufficient to form a
5 belief as to the truth of the allegations of paragraph 1.46 of the cross-claim, and
6 therefore, denies the same.

7 1.47 The allegations of paragraph 1.47 of the cross-claim call for legal
8 conclusions to which no response is required. To the extent any such response
9 is required, however, Prudential is without knowledge or information sufficient
10 to form a belief as to the truth of the allegations of paragraph 1.47 of the cross-
11 claim, and therefore, denies the same.

12 1.48 Prudential is without knowledge or information sufficient to form a
13 belief as to the truth of the allegations of paragraph 1.48 of the cross-claim, and
14 therefore, denies the same.

15 1.49 Prudential is without knowledge or information sufficient to form a
16 belief as to the truth of the allegations of paragraph 1.49 of the cross-claim, and
17 therefore, denies the same.

18 1.50 Prudential admits that the City adopted a resolution supporting the
19 development of the Garage Facility in November of 1996. Prudential neither
20 admits nor denies the allegations with respect to the newspaper article reporting
21 the adoption of the resolution as that document speaks for itself. Prudential is
22 without knowledge or information sufficient to form a belief as to the truth of
23 the remaining allegations of paragraph 1.50 of the cross-claim, and therefore,
24 denies the same.

1.51 Prudential is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1.51 of the cross-claim, and therefore, denies the same.

1.52 Prudential admits that Ordinance C-31823 was presented at the City Council meeting on January 13, 1997. Prudential neither admits nor denies the allegations with respect to the substance of the Ordinance as that document speaks for itself. Prudential is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 1.52 of the cross-claim, and therefore, denies the same.

1.53 Prudential neither admits nor denies the allegations with respect to the substance of the Ordinance as that document speaks for itself. Prudential denies the remaining allegations of paragraph 1.53 of the cross-claim.

1.54 Prudential neither admits nor denies the allegations with respect to the substance of the Ordinance as that document speaks for itself. Prudential denies the remaining allegations of paragraph 1.54 of the cross-claim.

1.55 Prudential neither admits nor denies the allegations with respect to the substance of the Ordinance as that document speaks for itself. Prudential denies the remaining allegations of paragraph 1.55 of the cross-claim.

1.56 Prudential neither admits nor denies the allegations with respect to the substance of the Ordinance as that document speaks for itself. Prudential denies the remaining allegations of paragraph 1.56 of the cross-claim.

1.57 Prudential is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1.57 of the cross-claim, and therefore, denies the same.

1.58 Prudential admits that testimony was offered regarding the Ordinance at the January 13, 1997 City Council meeting. Prudential neither

1 admits nor denies the allegations with respect to the substance of the transcript
2 of the proceedings as that document speaks for itself. Prudential denies the
3 remaining allegations of paragraph 1.58 of the cross-claim.

4 1.59 Prudential admits that testimony was offered regarding the
5 Ordinance at the January 13, 1997 City Council meeting. Prudential neither
6 admits nor denies the allegations with respect to the substance of the transcript
7 of the proceedings as that document speaks for itself. Prudential denies the
8 remaining allegations of paragraph 1.59 of the cross-claim.

9 2.57 Prudential admits that testimony was offered regarding the
10 Ordinance at the January 13, 1997 City Council meeting. Prudential neither
11 admits nor denies the allegations with respect to the substance of the transcript
12 of the proceedings as that document speaks for itself. Prudential denies the
13 remaining allegations of paragraph 2.57 of the cross-claim.

14 1.60 Prudential admits that the City adopted resolutions with respect to
15 the development of the Garage Facility. Prudential neither admits nor denies
16 the allegations with regard to the substance of those resolutions as those
17 documents speak for themselves. Prudential admits that testimony was offered
18 regarding the Ordinance at the January 13, 1997 City Council meeting.
19 Prudential is without knowledge or information sufficient to form a belief as to
20 the truth of the remaining allegations of paragraph 1.60 of the cross-claim, and
21 therefore, denies the same.

22 1.61 Prudential is without knowledge or information sufficient to form a
23 belief as to the truth of the allegations of paragraph 1.61 of the cross-claim, and
24 therefore, denies the same.

25 1.62 Prudential neither admits nor denies the allegations with respect to
26 the substance of the Coopers & Lybrand report as that document speaks for

1 itself. Prudential is without knowledge or information sufficient to form a
2 belief as to the truth of the remaining allegations of paragraph 1.62 of the cross-
3 claim, and therefore, denies the same.

4 1.63 Prudential is without knowledge or information sufficient to form a
5 belief as to the truth of the allegations of paragraph 1.63 of the cross-claim, and
6 therefore, denies the same.

7 1.64 Prudential denies the allegations of paragraph 1.64 of the cross-
8 claim.

9 1.65 To the extent that the allegations of paragraph 1.65 call for legal
10 conclusions, no response is required. Prudential is without knowledge or
11 information sufficient to form a belief as to the truth of the remaining
12 allegations of paragraph 1.65 of the cross-claim, and therefore, denies the
13 same.

14 1.66 Prudential admits that the City adopted the Ordinance on January
15 27, 1997. Prudential neither admits nor denies the allegations with respect to
16 the substance of the Ordinance as that document speaks for itself. Prudential
17 denies the remaining allegations of paragraph 1.66 of the cross-claim.

18 1.67 Prudential is without knowledge or information sufficient to form a
19 belief as to the truth of the allegations of the second sentence of paragraph 1.67
20 of the cross-claim, and therefore, denies the same. Prudential denies the
21 remaining allegations of paragraph 1.67 of the cross-claim.

22 1.68 Prudential is without knowledge or information sufficient to form a
23 belief as to the truth of the allegations of paragraph 1.68 of the cross-claim, and
24 therefore, denies the same.

25 1.69 Prudential denies the allegations of paragraph 1.69 of the cross-
26 claim.

1 1.70 Prudential denies the allegations of paragraph 1.70 of the cross-
2 claim.

3 1.71 Prudential is without knowledge or information sufficient to form a
4 belief as to the truth of the allegations of paragraph 1.71 of the cross-claim, and
5 therefore, denies the same.

6 1.72 Prudential admits that the Authority adopted a resolution in May
7 1997. Prudential neither admits nor denies the allegations with respect to the
8 substance of the resolution as that document speaks for itself. Prudential denies
9 the remaining allegations of paragraph 1.72 of the cross-claim.

10 1.73 Prudential neither admits nor denies the allegations with respect to
11 the substance of the resolution as that document speaks for itself. Prudential
12 denies the remaining allegations of paragraph 1.73 of the cross-claim.

13 1.74 The allegations of paragraph 1.74 call for legal conclusions to
14 which no response is required. To the extent any response is required,
15 Prudential is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations of paragraph 1.74 of the cross-claim, and therefore,
17 denies the same.

18 1.75 Prudential denies the allegations of paragraph 1.75 of the cross-
19 claim.

20 1.76 Prudential denies the allegations of paragraph 1.76 of the cross-
21 claim.

22 1.77 Prudential admits that the Washington Supreme Court issued a
23 decision in the case filed by CLEAN. Prudential neither admits nor denies the
24 allegations with respect to the opinion of the Washington Supreme Court as that
25 document speaks for itself.
26

1 1.78 Prudential is without knowledge or information sufficient to form a
2 belief as to the truth of the allegations of paragraph 1.78 of the cross-claim, and
3 therefore, denies the same.

4 1.79 Prudential is without knowledge or information sufficient to form a
5 belief as to the truth of the allegations of paragraph 1.79 of the cross-claim, and
6 therefore, denies the same.

7 1.80 Prudential is without knowledge or information sufficient to form a
8 belief as to the truth of the allegations of paragraph 1.80 of the cross-claim, and
9 therefore, denies the same.

10 1.81 Prudential admits that the bonds were sold in September of 1998.
11 Prudential is without knowledge or information sufficient to form a belief as to
12 the truth of the remaining allegations of paragraph 1.81 of the cross-claim, and
13 therefore, denies the same.

14 1.82 Prudential is without knowledge or information sufficient to form a
15 belief as to the truth of the allegations of paragraph 1.82 of the cross-claim, and
16 therefore, denies the same.

17 1.83 Prudential neither admits nor denies the allegations with respect to
18 the substance of reports issued by Walker as those documents speak for
19 themselves. Prudential denies the remaining allegations of paragraph 1.83 of
20 the cross-claim.

21 1.84 Prudential is without knowledge or information sufficient to form a
22 belief as to the truth of the allegations of paragraph 1.84 of the cross-claim, and
23 therefore, denies the same.

24 1.85 Prudential is without knowledge or information sufficient to form a
25 belief as to the truth of the allegations of paragraph 1.85 of the cross-claim, and
26 therefore, denies the same.

1 1.86 Prudential is without knowledge or information sufficient to form a
2 belief as to the truth of the allegations of paragraph 1.86 of the cross-claim, and
3 therefore, denies the same.

4 1.87 Prudential admits the allegations of paragraph 1.87 of the cross-
5 complaint.

6 1.88 Prudential is without knowledge or information sufficient to form a
7 belief as to the truth of the allegations of paragraph 1.88 of the cross-claim, and
8 therefore, denies the same.

9 1.89 Prudential is without knowledge or information sufficient to form a
10 belief as to the truth of the allegations of paragraph 1.89 of the cross-claim, and
11 therefore, denies the same.

12 1.90 Prudential is without knowledge or information sufficient to form a
13 belief as to the truth of the allegations of paragraph 1.90 of the cross-claim, and
14 therefore, denies the same.

15 1.91 Prudential is without knowledge or information sufficient to form a
16 belief as to the truth of the allegations of paragraph 1.91 of the cross-claim, and
17 therefore, denies the same.

18 1.92 Prudential is without knowledge or information sufficient to form a
19 belief as to the truth of the allegations of paragraph 1.92 of the cross-claim, and
20 therefore, denies the same.

21 1.93 Prudential is without knowledge or information sufficient to form a
22 belief as to the truth of the allegations of paragraph 1.93 of the cross-claim, and
23 therefore, denies the same.

24 1.94 Prudential admits that the bonds were downgraded. Prudential is
25 without knowledge or information sufficient to form a belief as to the truth of
26

1 the remaining allegations of paragraph 1.94 of the cross-claim, and therefore,
2 denies the same.

3 1.95 Prudential is without knowledge or information sufficient to form a
4 belief as to the truth of the allegations of paragraph 1.95 of the cross-claim, and
5 therefore, denies the same.

6 1.96 Prudential is without knowledge or information sufficient to form a
7 belief as to the truth of the allegations of paragraph 1.96 of the cross-claim, and
8 therefore, denies the same.

9 1.97 Prudential is without knowledge or information sufficient to form a
10 belief as to the truth of the allegations of paragraph 1.97 of the cross-claim, and
11 therefore, denies the same.

12 1.98 Prudential neither admits nor denies the allegations with respect to
13 the substance of the reports as those documents speak for themselves.
14 Prudential is without knowledge or information sufficient to form a belief as to
15 the truth of the remaining allegations of paragraph 1.98 of the cross-claim, and
16 therefore, denies the same.

17 1.99 Prudential neither admits nor denies the allegations with respect to
18 the substance of the Keyser Marston report as that document speaks for itself.
19 Prudential is without knowledge or information sufficient to form a belief as to
20 the truth of the remaining allegations of paragraph 1.99 of the cross-claim, and
21 therefore, denies the same.

22 1.100 Prudential is without knowledge or information sufficient to form a
23 belief as to the truth of the allegations of paragraph 1.100 of the cross-claim,
24 and therefore, denies the same.
25
26

1 1.101 Prudential is without knowledge or information sufficient to form a
2 belief as to the truth of the allegations of paragraph 1.101 of the cross-claim,
3 and therefore, denies the same.

4 1.102 Prudential neither admits nor denies the allegations with respect to
5 the letter from the Council's attorney as that document speaks for itself.
6 Prudential is without knowledge or information sufficient to form a belief as to
7 the truth of the remaining allegations of paragraph 1.102 of the cross-claim, and
8 therefore, denies the same.

9 1.103 Prudential admits that the bonds were downgraded. Prudential is
10 without knowledge or information sufficient to form a belief as to the truth of
11 the remaining allegations of paragraph 1.103 of the cross-claim, and therefore,
12 denies the same.

13 1.104 Prudential admits that the developers filed an action against the
14 City. Prudential neither admits nor denies the allegations with respect to that
15 court's order as it speaks for itself. Prudential is without knowledge or
16 information sufficient to form a belief as to the truth of the remaining
17 allegations of paragraph 1.104 of the cross-claim, and therefore, denies the
18 same.

19 1.105 Prudential neither admits nor denies the allegations with respect to
20 that court's order as it speaks for itself.

21 1.106 Prudential is without knowledge or information sufficient to form a
22 belief as to the truth of the allegations of paragraph 1.106 of the cross-claim,
23 and therefore, denies the same.

24 1.107 Prudential is without knowledge or information sufficient to form a
25 belief as to the truth of the allegations of paragraph 1.107 of the cross-claim,
26 and therefore, denies the same.

1 1.108 Prudential neither admits nor denies the allegations with respect to
2 the order of the Washington Supreme Court as that documents speaks for itself.

3 2.1 In answering paragraph 2.1 of the cross-claim, Prudential realleges
4 and incorporates by reference all previous answers.

5 2.2 Prudential denies the allegations of paragraph 2.2 of the cross-
6 claim.

7 2.3 Prudential is without knowledge or information sufficient to form a
8 belief as to the truth of the allegations of paragraph 2.3 of the cross-claim, and
9 therefore, denies the same.

10 2.4 Prudential is without knowledge or information sufficient to form a
11 belief as to the truth of the allegations of paragraph 2.4 of the cross-claim, and
12 therefore, denies the same.

13 2.5 Prudential denies the allegations of paragraph 2.5 of the cross-
14 claim.

15 2.6 Prudential denies the allegations of paragraph 2.6 of the cross-
16 claim.

17 2.7 Prudential denies the allegations of paragraph 2.7 of the cross-
18 claim.

19 2.8 Prudential denies the allegations of paragraph 2.8 of the cross-
20 claim.

21 2.9 Prudential is without knowledge or information sufficient to form a
22 belief as to the truth of the allegations of paragraph 2.9 of the cross-claim, and
23 therefore, denies the same.

24 2.10 Prudential admits that a controversy exists between the City and it
25 regarding the interpretation of the Ordinance. Prudential is without knowledge
26

1 or information sufficient to form a belief as to the truth of the remaining
2 allegations of paragraph 2.10 of the cross-claim, and therefore, denies the same.

3 2.11 Prudential admits that a controversy exists between the City and it
4 regarding the interpretation of the Ordinance. Prudential is without knowledge
5 or information sufficient to form a belief as to the truth of the remaining
6 allegations of paragraph 2.11 of the cross-claim, and therefore, denies the same.

7 2.12 Prudential is without knowledge or information sufficient to form a
8 belief as to the truth of the allegations of paragraph 2.12 of the cross-claim, and
9 therefore, denies the same.

10 2.13 Prudential admits the allegations of paragraph 2.12 of the cross-
11 claim.

12 2.14 Paragraph 2.14 of the cross-claim does not set forth any allegations
13 requiring an admission or denial by Prudential. To the extent the allegations
14 require an admission or denial, Prudential denies the allegations of paragraph
15 2.14 of the cross-claim.

16 2.15 In answering paragraph 2.15 of the cross-claim, Prudential
17 realleges and incorporates by reference all previous answers.

18 2.16 Prudential is without knowledge or information sufficient to form a
19 belief as to the truth of the allegations of paragraph 2.16 of the cross-claim, and
20 therefore, denies the same.

21 2.17 Prudential admits that a controversy exists between the City and it
22 regarding the interpretation of the Ordinance. Prudential is without knowledge
23 or information sufficient to form a belief as to the truth of the remaining
24 allegations of paragraph 2.17 of the cross-claim, and therefore, denies the same.

25 2.18 Prudential admits that a controversy exists between the City and it
26 regarding the interpretation of the Ordinance. Prudential is without knowledge

1 or information sufficient to form a belief as to the truth of the remaining
2 allegations of paragraph 2.18 of the cross-claim, and therefore, denies the same.

3 2.19 Prudential admits that a controversy exists between the City and it
4 regarding the interpretation of the Ordinance. Prudential is without knowledge
5 or information sufficient to form a belief as to the truth of the remaining
6 allegations of paragraph 2.19 of the cross-claim, and therefore, denies the same.

7 2.20 Prudential admits the allegations of paragraph 2.20 of the cross-
8 claim.

9 2.21 Paragraph 2.21 of the cross-claim does not set forth any allegations
10 requiring an admission or denial by Prudential. To the extent the allegations
11 require an admission or denial, Prudential denies the allegations of paragraph
12 2.14 of the cross-claim.

13 2.22 Prudential denies the allegations of paragraph 2.22 of the cross-
14 claim.

15 2.23 Prudential denies the allegations of paragraph. 2.23 of the cross-
16 claim.

17 2.24 Prudential denies the allegations of paragraph 2.24, including sub-
18 parts, of the cross-claim.

19 AFFIRMATIVE DEFENSES

20 WHEREBY, as further answer to the claims asserted by the City's cross-claim,
21 Prudential asserts the following affirmative defenses:

22 A. The City's cross-claim fails to state a cause of action against
23 Prudential upon which relief can be granted.

24 B. The City failed to mitigate their alleged damages, if any.
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1 C. The City's alleged damages, if any, were caused, or are attributable
2 to, their acts or omissions, or the acts or omissions of persons or entities other
3 than Prudential.

4 D. Prudential is not liable for any of the City's alleged damages, if
5 any, under a theory of contributory or comparative negligence.

6 E. The City is barred from asserting the claims and causes of action
7 asserted in the cross-claim under theories of estoppel, collateral estoppel, and
8 res judicata.

9 F. The City is barred by the doctrine of laches from asserting the
10 claims and causes of action asserted in the cross-claim.

11 G. The City has "unclean hands" and is precluded from asserting the
12 claims and causes of action asserted in the cross-claim.

13 H. Prudential incorporates by reference, as an affirmative defense,
14 each of its allegations and causes of action asserted against the City of Spokane
15 in its counterclaim against the City, *see infra*.

16 COUNTERCLAIM

17 Counter-plaintiff Prudential Securities Incorporated ("Prudential"), by its
18 attorneys, as and for its Counterclaim against cross-defendants City of Spokane
19 ("City"), states as follows:

20 PARTIES

21 1. Prudential is a Delaware corporation and registered broker-dealer
22 which does business in the State of Washington.

23 2. Defendant City is a first-class charter city of the State of
24 Washington.

25 JURISDICTION AND VENUE

26
DEFENDANT PRUDENTIAL SECURITIES INC.'S
ANSWER AND COUNTERCLAIM TO THE CITY
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4. This Court is a proper venue for the causes of action asserted herein pursuant to 28 U.S.C. § 1391(b).

GENERAL ALLEGATIONS

5. On September 15, 1998, the Spokane Downtown Foundation issued \$31,465,000 of Spokane Downtown Foundation Revenue Bonds, Series 1998 (the "Bonds"), to finance the purchase of the renovated and expanded River Park Square Parking Garage which is adjacent to the River Park Square shopping mall in downtown Spokane. Prudential acted as underwriter for the Bonds.

6. On January 27, 1997, the City adopted Ordinance No. C31823 (the "Ordinance") in connection with the development of the garage facility and the issuance of the Bonds. The Ordinance specifies multiple benefits to the City from participation in the acquisition and financing of the Garage, and specifically acknowledges the Foundation "issuing tax-exempt bonds on behalf of the City."

7. Pursuant to the Ordinance, the City pledged to loan parking meter revenue funds to the Parking Development Authority in order to ensure that the Authority had the ability to fulfill its payment obligations under the garage facility lease agreement. These payments under the lease agreement provided the Foundation with sufficient assets to service the Bond issuance.

8. Under the Ordinance, the duty to effectuate the loans was delegated to the Spokane city manager and city attorney. In particular, the Ordinance provides:

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1
2 The City hereby pledges, as a first charge and lien, that, in the
3 even Parking Revenues are insufficient to make Ground Lease
4 Payments and pay Operating Expenses, the City shall loan money
5 from the Parking Meter Revenue Fund (but only to the extent
6 money or investments are then on deposit or allocable to the
7 Parking Meter Revenue Fund) to the [Authority's] Ground Lease
8 Account and Operating and Maintenance Account in an amount
9 that is no more than is necessary, together with such other money
10 as is on hand and available in the Ground Lease Account and the
11 Operating and Maintenance Account, to permit the [Authority] to
12 make Ground Lease Payments and to pay Operating Expenses.

13
14 The City Manager, the City Attorney and their designees, plus
15 bond counsel, Perkins Coie, are authorized in their reasonable
16 judgment to take all acts as appropriate or necessary in order to
17 carry out and complete the transactions contemplated by this
18 Ordinance.

19 9. The Ordinance went on to require, in Section 7A, that the Spokane
20 city council adopt a resolution approving the issuance of the Bonds by the
21 Foundation. The city council had earlier adopted that resolution on January 13,
22 1997 (Resolution No. 97-2).

23 10. On September 24, 1998, Peter G. Fortin, a deputy city manager,
24 certified that the assumptions and projections contained in the Official
25 Statement and the Feasibility Study were reasonable. In the same document,
26 Mr. Fortin represented that the information contained in the Official Statement
"relating to the City, its organizational activities, properties and parking meter
revenues is true and correct in all material respects and does not contain any
untrue or incorrect statement of material fact or omit to state a material fact
necessary in order to make the statements made herein, in light of the
circumstances under which they were made, not misleading."

1 11. On September 24, 1998, a Spokane City Attorney sent an opinion
2 letter to Prudential with respect to the issues surrounding the issuance of the
3 Bonds. In the letter, the Spokane City Attorney opined that the relevant
4 statements contained in the Official Statement "insofar as such statements
5 purport to summarize certain provisions of the City Resolutions, the City
6 Ordinance or to describe the City, are true, accurate and correct summaries or
7 descriptions thereof in all material respects and do not omit to state a material
8 fact necessary in order to make the statements therein, in light of the
9 circumstances under which they were made, not misleading."

10 12. On December 21, 2001, the Spokane County Superior Court issued
11 an order in Eugster v. City of Spokane, No. 00-2-04265-0. In Eugster, the City
12 argued that the Ordinance should be interpreted in line with the allegations in
13 their cross-claim. The court rejected this assertion. "The loan [encompassed by
14 the Ordinance] was a guarantee to bondholders that, one, they would be paid
15 first, and two, if Garage revenues were insufficient to pay the Ground Lease and
16 Operational Expenses, the City would be required to make a loan. . . . The
17 logical interpretation is that Garage revenues should be calculated after debt
18 services are paid." Memorandum Opinion, December 21, 2001, at 9.

19 13. In contrast to its earlier representations, the City, or individuals
20 purporting to speak for the City, asserts that the Ordinance does not obligate it
21 to loan money to the Authority in the event that parking revenues are
22 insufficient to make the lease payments and pay operating expenses of the
23 garage facility.

24 **FIRST CAUSE OF ACTION – DECLARATORY RELIEF**

25 14. Prudential incorporates by reference each allegation set forth above
26 as though fully set forth herein.

1 15. The Ordinance requires the City to loan money to the Authority in
2 the event that operational revenues fall short. The City affirmed this
3 representation in a certificate referenced in the Bond Purchase Agreement and
4 an opinion letter by the Spokane City Attorney.

5 16. The Spokane County Superior Court has held that the Ordinance
6 requires the City to loan money to the Authority as set forth in the Official
7 Statement.

8 17. The City has now crafted a novel legal argument in an effort to
9 avoid its obligations to provide funding for the operation of the Garage.

10 18. An actual, legal controversy now exists between Prudential and the
11 City of Spokane with respect to the City's obligation under the Ordinance to
12 loan money to the Authority in the event that parking revenues are insufficient
13 to make the lease payments and pay operating expenses of the garage facility.

14 19. Prudential seeks a judicial determination of the City's duties and
15 obligations under the Ordinance pursuant to 28 U.S.C. § 2201.

16 **SECOND CAUSE OF ACTION - BREACH OF WARRANTY**

17 20. Prudential incorporates by reference each allegation set forth above
18 as though fully set forth herein.

19 21. Prudential agreed to act as underwriter pursuant to the Bond
20 Purchase Agreement.

21 22. Paragraph 8(c)(21) of the Bond Purchase Agreement conditions
22 Prudential's duty to act as underwriter on the receipt of a certificate from the
23 Deputy City Manager of the City that warrants the information contained in the
24 Official Statement.

1 23. On September 24, 1998, the Deputy City Manager of Spokane
2 issued a certificate warranting the information contained in the Official
3 Statement.

4 24. Prudential reasonably relied upon the warranty of the City. If the
5 City is permitted to renege on its duties under the Ordinance, Prudential may
6 suffer damage by the false representations of the City.

7 **THIRD CAUSE OF ACTION - NEGLIGENT MISREPRESENTATION**

8
9 25. This claim shall be asserted against the City through amendment to this
10 Complaint upon the expiration of sixty days from service upon the City of the
11 "Notice of Claim Against City of Spokane, Washington, for Tortious Conduct"
12 which will be served upon the City, pursuant to R.C.W. Chapters 4.96 and
13 35.31 and S.M.C. § 4.02.030.

14 **PRAYER FOR RELIEF**

15 NOW, THEREFORE, having fully answered the City's cross-claim,
16 defendant Prudential respectfully requests and prays for the following relief:

17 i) For dismissal of the City's cross-claim with prejudice and without
18 costs;

19 2. For its damages in an amount to be shown at the time of trial;

20 3. For a judicial declaration of the respective rights and obligations of
21 the City of Spokane under its Ordinance obligating the City to cover any
22 shortfalls in servicing the Bonds;

23 4. For its attorneys' fees and costs; and

24 5. For such other and further relief as the Court deems just and
25 proper.
26

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DATED this 9th day of January, 2002.

6

LANE POWELL SPEARS LUBERSKY LLP

7

8

By 

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DEFENDANT PRUDENTIAL SECURITIES INC.'S
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CERTIFICATE OF SERVICE

I, Patricia Stockwell, the undersigned, hereby certify and declare under penalty of perjury as follows:

I am a citizen of the United States and a resident of Snohomish County, Washington. I am over the age of 18 years and am not a party to the within cause. My business mailing address is 1420 Fifth Avenue, Suite 4100, Seattle, WA 98101-2338.

I caused true and correct copies of Defendant Prudential Securities Incorporated's Answer and Counterclaim to the City of Spokane's Cross-Claim to be served on the following counsel of record as follows:

Via Facsimile to:

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6 DATED this 9th day of January, 2002.

7 
8 Patricia Stockwell